

REMARKS/ARGUMENTS

Claims 1-20 remain in the application, all of which stand rejected.

1. Rejection of Claims 1-6 Under 35 USC 101

Claims 1-6 stand rejected as being directed to non-statutory subject matter. More specifically, the Examiner asserts:

As per claim 1, Applicant claims "At least one machine-readable media. . .", not having computer instructions code, stored in a computer readable medium and being executed by a computer. A computer program, not having computer instructions being executed by a computer or without the computer-readable medium needed to realize the computer program's functionality, is nonstatutory functional descriptive material [See MPEP 2106].

7/17/2006 Office Action, sec. 2, p. 2.

Applicants respectfully disagree. In contrast to the Examiner's assertion, claim 1 *does recite* the "machine-readable media" on which the "program code" is stored to realize its functionality.

On page 3 of the Examiner's 7/17/2006 Office Action, the Examiner proposes an alternate claim form. However, Applicants believe this alternate claim form is equivalent to their current claim form, such that the Examiner's claim form would possibly create prosecution history estoppel for no reason, other than to replace Applicants' current claim language with equivalent, but different, claim language.

Although the Examiner refers to MPEP 2106 to support his rejection, Applicants have reviewed this section and cannot find any prohibition against the format of their claim 1.

Claims 1-6 are believed to be statutory for at least the above reasons.

2. Rejection of Claims 1-20 Under 35 USC 103(a)

Claims 1-20 stand rejected under 35 USC 103(a) as being unpatentable over Nolan et al. (US Pat. No. 6,640,278; hereinafter "Nolan") in view of Srikrishna et al. (US Pub. No. 2005/0129005; hereinafter "Srikrishna").

With respect to claim 1, the Examiner asserts, in part, that:

Nolan substantially teaches the invention. Nolan teaches:

- At least one machine-readable media comprising: first program code to determine a route [routing col. 26, lines 24-45] path through a gateway to a storage area network (**SAN**) for each of a plurality of addresses of an interface of a server [abstract, fig. 1-5, col. 1, lines 25-30; col. 2, lines 3-17];
- the first program code to determine the route path [fig. 1-5, abstract, col. 3, lines 1-20];

7/17/2006 Office Action, sec. 5, pp. 4-5.

Applicants respectfully disagree. Contrary to the Examiner's assertion, Nolan does not provide any discussion of routing or route determination in col. 26, lines 24-45. Nor does Nolan mention the existence of a "gateway" or a "path through a gateway". Instead, Nolan's col. 26, lines 24-45, teaches that a user can manually map a LUN to a storage resource (and it is silent on how a route is determined between an interface and a storage resource, or whether any such route might be mapped through a gateway).

While the Examiner admits that Nolan "does not explicitly address" the determination of a route path "by applying an algorithm to one or more numerical values associated with [an] address [of an interface]", the Examiner asserts that:

...Nolan disclose capability of:

...

- a connectivity among servers, host computer, SAN, switches, gateway, etc....

7/17/2006 Office Action, sec. 5, pp. 5-6.

Again, Applicants respectfully disagree. Nolan never mentions a "gateway", or the determination of routes through a gateway.

To fill the shortcomings in Nolan's teachings, the Examiner asserts that:

... Srikrishna explicitly teaches:

...
- **a control algorithm used via routing path quality, data latency variable, data transmission QOS, routing statistic via data packet addresses** [col. 6, par.0076-0081] as well as a **first, second, third routing measurement determination** [fig. 5, col. 5, par. 0063-0070].

7/17/2006 Office Action, sec. 5, p. 6.

Applicants respectfully disagree. While Srikrishna teaches how to test wireless routes, and how to choose optimum ones of the wireless routes, Srikrishna does not teach that route paths should be determined "by applying an algorithm to one or more numerical values associated with [an] address [of an interface]". Rather, Srikrishna only teaches, "A first step 510 [that] includes receiving routing packets. . .; each routing packet including route information that identifies the wireless route of the routing packet." See, Srikrishna, par. [0065]. Note that Srikrishna fails to specify *how* the "route information" is determined, or whether it is based on "numerical values associated with [an] address [of an interface]". Given that neither Nolan nor Srikrishna teaches this, claim 1 is believed to be allowable over the combined teachings of Nolan and Srikrishna.

Claims 2-6 are believed to be allowable because they depend from claim 1. Claims 2-5 are also believed to be allowable because they teach specific ways to implement the "algorithm" of claim 1, and these ways are not mentioned by either Nolan or Srikrishna.

Claims 7-20 are believed to be allowable for reasons similar to why claims 1-6 are believed to be allowable.

3. Conclusion

In light of the remarks and arguments provided herein, Applicants respectfully request the timely issuance of a Notice of Allowance.

Respectfully submitted,
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